

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**In re:**

**WAREHOUSE 86, LLC**  
  
**Debtor**

**CASE NO. 08-03423-EE**  
**Chapter 11**

**ORDER APPROVING JOINT MOTION OF WAREHOUSE 86, LLC  
AND SCK, INC. F/K/A S. C. KIOSKS, INC. FOR AUTHORITY TO DEPOSIT  
INSURANCE PROCEEDS INTO THE REGISTRY OF THE COURT IN  
CONTEMPLATION OF THE FILING OF A  
COMPLAINT FOR DECLARATORY JUDGMENT  
[Dkt. # 181]**

This matter came on for hearing on the *Joint Motion for Authority to Deposit Insurance Proceeds into the Registry of the Court in Contemplation of the Filing of a Complaint for Declaratory Judgment* (Dkt. # 181) (the “Joint Motion”). The Court considered the Joint Motion and finds and orders as follows:

1. On November 4, 2008, the Debtor filed its Voluntary Petition under Chapter 11 of the Title 11 United States Code.
2. Warehouse 86 was the owner of and the named insured in that certain commercial property insurance policy numbered 3A2-22-78-08, issued by Employers Mutual Casualty Company (“EMC”) with effective dates from April 15, 2007 to April 15, 2008 (the “Policy”). SCK was named as a loss payee under the Policy.
3. On or about February 5, 2008, the Debtor’s corporate offices and its primary warehouse and distribution center at its Southaven, Mississippi location (the “Location”) and personal property located therein were damaged by a tornado. On or about February 11, 2008, the Location and personal property located therein were damaged by a fire.

4. The Movants received the following checks from EMC payable jointly to Debtor and to SC Kiosks, Inc., each of which checks has been endorsed by the payee or its agent:

Date	Payees	Check Number	Amount
07/23/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03305822	\$1,060,000.00
08/12/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03306059	\$979,882.35
08/12/2009	Warehouse 86, LLC and SC Kiosks, Inc.	H03306060	\$50,000.00
		Total	\$2,089,882.35

5. The total amount of the checks listed above is \$2,089,882.35 (the “Insurance Proceeds”).

6. The Debtor anticipates filing within a short period of time a motion for authority to compromise and settle the claims against EMC under the Policy for the amount of the Insurance Proceeds (the “Motion to Compromise”).

7. A dispute exists between the Debtor and SCK as to the right of each party to the Insurance Proceeds.

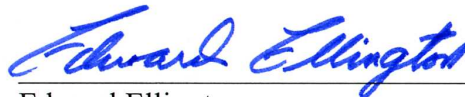
8. The Debtor and/or SCK anticipate filing a Complaint for Declaratory Judgment to ask the Court to determine the rights of each party to the Insurance Proceeds (the “Declaratory Judgment Action”).

9. In the meantime, the Debtor and SCK have agreed to deposit the funds from the checks representing the Insurance Proceeds into the registry of the Court pending the resolution of the Motion to Compromise and the Declaratory Judgment Action, and further that the funds shall remain in the registry of the Court until entry of a final order regarding the disbursement of the Insurance Proceeds, and any accrued interest (net of expenses).

10. By the deposit of these funds into the registry of the Court, the Movants reserve all rights, claims, remedies, interests, defenses and objections.

IT IS, THEREFORE, ORDERED, that the Movants are hereby authorized to deposit the checks described in paragraph 4 above into the registry of the Court, and such funds shall remain in the registry of the Court until entry of a final order regarding the disbursement of the Insurance Proceeds and any accrued interest (net of expenses).

SO ORDERED



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Edward Ellington  
United States Bankruptcy Judge

Dated: August 26, 2009

SUBMITTED BY:

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